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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION AT DAYTON
4 - - -
5 CARGILL, INC., ET AL., :
6 PLAINTIFFS, :
7 -VS- :CASE NO. C-3-98-036
8 ADVANCED FOUNDRY, INC., ET AL., :
9 DEFENDANTS. :
10 - - -

11 Deposition of EARL D. GREGORY, PhD, CIH,
12 CSP, an NCR 30(B)6 witness herein, taken by the
13 defendants as upon examination pursuant to the
14 Federal Rules of Civil Procedure and pursuant to
15 Notice to Take Deposition and stipulations
16 hereinafter set forth at the offices of Coolidge,
17 Wall, Womsley & Lombard, 33 West First Street,
18 Dayton, Ohio, at 9:00 a.m. on Thursday, September
19 13, 2001 before Pamela Sue Spangler, RPR, a notary
20 public within and for the State of Ohio.
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EPA Region 5 Records Ctr.



368976

Gregory, Earl 9/13/2001

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1 of lawful age, an NCR 30(b)6 witness herein, being
2 first duly sworn as hereinafter certified was
3 examined and deposed as follows:

4 EXAMINATION

5 BY MS. HORVITZ:

6 Q. Okay. Could you state your name,
7 please.

8 A. Earl Gregory.

9 Q. And your address?

10 A. 5718 Yamasee, Y A M A S E E, Drive,
11 Hamilton, Ohio 45011.

12 Q. Okay. And how old are you, Mr.
13 Gregory?

14 A. Fifty-two.

15 Q. You are currently employed by NCR
16 Corporation?

17 A. Correct.

18 Q. And what is your position there?

19 A. I am the Corporate Director of
20 Environment Health and Safety.

21 Q. And are you appearing at this
22 deposition as the designated representative of NCR
23 in response to the 30(b) (6) Notice of Deposition?

24 A. Yes.

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1 Q. And I would like to show you what has
2 been marked as Exhibit 62 and ask you if that is
3 the Notice of Deposition that you are here on?

4 A. Yes, it is.

5 Q. Okay. Now, how long have you held
6 your current position?

7 A. Since June of 1999.

8 Q. Could you describe your
9 responsibilities in that position, please?

10 A. Yes. I had responsibilities for all
11 environmental, safety and health activities for NCR
12 current and past operations, and I advise
13 management on compliance strategies and general
14 environmental safety and the health policies and
15 practice.

16 Q. And I assume you have a staff?

17 A. Yes.

18 Q. And how big is that staff?

19 A. Two people.

20 Q. Two people. Is this for -- your
21 responsibilities are corporatewide or NCR in
22 Dayton?

23 A. Corporatewide, worldwide.

24 Q. Worldwide, three of you. You're

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1 UNITED STATES DISTRICT COURT
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6 PLAINTIFFS, :
7 -VS- :CASE NO. C-3-98-036
8 ADVANCED FOUNDRY, INC., ET AL., :
9 DEFENDANTS. :
10 - - -

11 Continued Deposition of Earl D. Gregory,
12 PhD, CIH, CSP, a 30(B)6 witness herein, taken by
13 the defendants as upon examination pursuant to the
14 Federal Rules of Civil Procedure and pursuant to
15 Notice to Take Deposition and stipulations
16 hereinafter set forth at the offices of Coolidge,
17 Wall, Womsley & Lombard, 33 West First Street,
18 Dayton, Ohio, at 9:00 a.m. on Friday, September 14,
19 2001 before Pamela Sue Spangler, RPR, a notary
20 public within and for the State of Ohio.

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Gregory, Earl D. 9/14/2001

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1 Q. So if you were dealing with, say,
2 adhesives or something, it would still be washed
3 down the drain?

4 A. Yes. Almost anything can be washed
5 down the drain as long as its physical size doesn't
6 exceed the physical size of the drain.

7 Q. But you don't know what the actual
8 practice was at NCR?

9 A. No, I don't have any personal
10 experience with their practice.

11 Q. All right. You stated in response to
12 questions by Mr. Rahaim that you had, I believe,
13 read interviews of Gene Smith, Bob Ross and Marion
14 Campbell; is that correct?

15 A. That's correct. Marion, M A R I O N,
16 I believe.

17 Q. Okay. And they had said in those
18 interviews that when NCR was, excuse me, disposing
19 of its own waste, it was taken to landfills near
20 the Dayton complex?

21 A. Correct.

22 Q. What were those landfills?

23 A. I don't remember all of them and they
24 weren't exact on that. They did mention that there

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1 was a landfill on West River Road, first they said
2 East River Road, then they said West River. Road
3 in their interviews they said Broadway Street, they
4 said Powell Road, and the Municipal and County
5 Incinerators.

6 Q. Okay. And this was all in the time
7 frame before the contract was signed with IWD in
8 1966?

9 A. Correct.

10 Q. And did they say that the Powell Road
11 Landfill was near the Dayton complex?

12 A. I don't know that they said that on
13 Powell, they said that was Broadway and West River
14 Road, and I think I'm missing another one or two, I
15 can't remember exactly all that they said.

16 Q. Okay. But they did specifically
17 mention Powell Road as one of the landfills?

18 A. Yes.

19 Q. Waste was taken to?

20 A. Yes, to the best of my recollection,
21 that was part of their testimony.

22 Q. And they also specifically mentioned
23 the County Incinerators?

24 A. Yes. County and Municipal. And I'm

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1 not -- I'm confused as to whether that was one in
2 the same, but at one point they mentioned it as the
3 Municipal, and the next point they called it the
4 County Incinerator.

5 Q. Okay. And then, as I understand your
6 testimony, these gentlemen also stated that
7 beginning in 1970 or '71 time frame, IWD took NCR's
8 waste to the Cardington Road Landfill?

9 A. They --

10 MR. RAHAIM: Objection. I think his
11 testimony with regard to that, although it included
12 his review of these summaries, also included other
13 facts that the witness reviewed.

14 A. They stated that their understanding
15 was IWD, during that time period from '70 or '71 to
16 1980 or '81, I forget exactly which numbers started
17 and ended or which year was a start or ending year,
18 but their understanding was that IWD took their
19 waste, NCR's waste during that time period to
20 Cardington Road.

21 Q. And did they state the basis for this
22 opinion?

23 A. They were just asked, and that was
24 the answer that they gave, that was their

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1 recollection from that time period.

2 Q. All right. So there was no
3 indication that they had discussed this and
4 determined this from IWD or that NCR had actually
5 requested IWD or specified in the contracts that
6 that's where the waste should go?

7 A. Yeah, they didn't indicate their
8 basis for that statement.

9 Q. Okay. And is it correct that they --
10 well, strike that.

11 Would that mean then that between
12 1966 and that 1970 or '71 time frame when IWD
13 allegedly began taking NCR's waste to Cardington
14 Road that IWD took NCR's waste to the Valleycrest
15 Landfill?

16 MR. RAHAIM: Objection. I'm sorry.

17 A. No. I was going to say I wouldn't
18 draw that conclusion.

19 MR. RAHAIM: I was going to object
20 in that NCR had no control over where IWD took its
21 wastes.

22 BY MS. HORVITZ:

23 Q. Did these interviews, did these
24 people in these interviews indicate where they

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1 thought NCR's waste was taken by IWD between 1966
2 and whenever they thought IWD began using the
3 Cardington Road Landfill?

4 A. Those particular people did not
5 indicate during that time period. I can't remember
6 whether they were asked directly about that time
7 period, but I don't recall them covering that time
8 period.

9 Q. And these were interviews conducted
10 in relation to the Cardington Road Landfill then?

11 A. Yes, that's my understanding.

12 Q. And has anybody else you talked to
13 indicated where NCR's waste was taken by IWD?

14 MR. RAHAIM: Are you including his
15 review of IWD driver deposition testimony or --

16 MS. HORVITZ: I thought he hadn't
17 reviewed the driver deposition testimony.

18 MR. RAHAIM: You showed him one
19 yesterday that spoke to the disposal of Cardington
20 Road.

21 BY MS. HORVITZ:

22 Q. From your review and preparation for
23 this deposition, have you seen anything which
24 states where IWD took NCR's waste between 1966 and

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Hopkins, William

NCR

From: Nash.Thomas@epamail.epa.gov
Sent: Monday, December 30, 2002 9:11 AM
To: Cibulskis.Karen@epamail.epa.gov; Sheppard.Deena@epamail.epa.gov
Cc: Amy Wright - DP&L; Brown, Ken; Athan Vinolus - DP&L; Cassandra Weaver - Delphi; Debra Kopsky - Waste Management; Tim Hoffman - Site Owners / Coolidge Wall Womsley & Lombard; James Forney - Waste Management; Brown, Ken; Karen Mignone - ITW / Pepe & Hazard; Martha Horvitz - DP&L / Bricker & Eckler; Steve Adams - ITW FEG
Subject: Re: South Dayton Dump - NCR Information



South Dayton Dump
- NCR Inform...

Karen, Deena:

I got this from Ken Brown this morning. I know we've discussed NCR. I agree with Ken that a 104(e) would be appropriate.

Lets send one generator 104(e) to NCR asking about this Site.

Thanks, Tom

(c) Thomas C. Nash
Associate Regional Counsel
phone: 312-886-0552
fax: 312-886-7160 or 312-886-0747
email: nash.thomas@epa.gov

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"Brown, Ken"
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12/30/02 08:48 AM

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Fax to:
Subject: South Dayton Dump - NCR
Information

Tom:

Please review the attached information from Martha Horvitz, counsel for DP&L . NCR was certainly a major manufacturer in the immediate area of the South Dayton Dump in the time frame of interest. Pages 304 and 305 of the deposition from the Cardington Road Landfill litigation indicate that NCR was taking its waste to landfills near their Dayton complex. The deposed speaks of several landfills in the area and indicates that others were used. We believe that the attached warrants at least a 104(e) request to NCR.

Thanks,

Ken

<<South Dayton Dump - NCR Information.PDF>>
(See attached file: South Dayton Dump - NCR Information.PDF)

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TELEFAX COVER LETTER

December 17, 2002

TO: Ken Brown**FROM: Martha E. Horvitz****Message:**

NCR's 30(b)(6) witness testified that prior to 1966 NCR disposed of waste at landfills on West River Road or East River Road and on Broadway Street. Transcript pages are attached. NCR refused to produce copies of the interviews the witness was discussing.

We are transmitting 10 pages including this cover letter. If this transmission is not complete, please call (614) 227-2300 and ask for the telefax operator at extension 2469. If you have any other questions, please ask for Anne Souder at extension 2465. Thank you.

TELEFAX NUMBER: 847-657-7892**PHONE NUMBER:****CLIENT/MATTER NUMBERS: 099999/009155**

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